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27 April 2004

Clerk of the Court
Michigan Supreme Court
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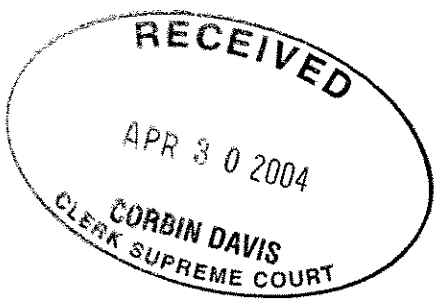
Lansing, MI 48909



Re: Proposed Amendments to court rules
SC: ADM File No. 2003-04

Dear Justices:

I am, hereby, writing in opposition to the proposed amendments to the court rules as referenced above. While, I do not, and cannot, agree with this Court's usurpation of the legislature's right to alter statutory law, specifically MCL 770.1; MSA 28.1098, just as I do not, and cannot, agree with the judicial and congressional shredding of the United States Constitution and its attendant Bill of Rights, I am forced to recognize its inevitability. To do otherwise would be little more than a proverbial cry in the wilderness. Therefore, I am left with no choice but to agree with the objections and recommendations so adroitly expressed by James Sterling Lawrence and Craig A. Daly, with the exception that I do not agree with any page or time limits, whatsoever, as limits should never be placed on justice and liberty!

Now the advocates for the prosecution have come up with some more rule changes to handicap an already handicapped defendant, as the grossly unconstitutional AEDPA's evisceration of the Great Writ wasn't enough for them. As if the battle for justice between a convicted person and the prosecution wasn't unfair enough already. What with the prosecuting attorney's law degree, complete law libraries, internet access, state-of-the-art word processors, and paralegals to do the research and the work, while the defendants, who can afford it, currently only have access to some off-brand, over-priced typewriter (i.e., a $297 Swintek worth at most $99). No wonder I feel like an Iraqi with an AK-47 facing down an MI-A1 Abrams tank in the desert. It is obvious to me, that these new rule changes, if effectuated, amount to another coat of varnish on the coffin prepared for the bodies of dying justice and liberty.

It is also obvious, the writers of these proposed rule changes are primarily prosecutors, or former prosecutors, as their clear intent is to deny any redress for the miscarriage of justice, which is why I am quite sure that the overwhelming majority of prosecuting attorneys in this state are so enamored of these proposals. These changes are blatantly pro-prosecution and anti-defense, which should come as no surprise, as Justice Blackmun's dissent so succinctly put it in Coleman v Thompson, 501 US 722, 758-759, 111 SCt 2546, 2569, 115 LEd2d 640 (1991), because:

> [t]he Court today continues its crusade to erect petty procedural barriers in the path of any state prisoner seeking review of his federal constitutional claims. Because I believe that the Court is

> creating a Byzantine morass of arbitrary, unnecessary, and unjustifiable impediments to the vindication of federal rights, I dissent.

As do I, and rightly so. It was not I, the victim of this soi disant justice system, that created this "Byzantine morass" of law, confusing to all but the initiated, and whose primary purpose seems to be to prevent an appeal from being heard on its merits. This is exactly the "morass" our country's founding fathers tried to circumvent by barring lawyers from the trial process entirely. I can see now why they wanted a trial to consist solely of the citizen, his accuser or accusers, judge and jury, sans all the confusing ritual and rhetoric. Apparently, and unfortunately, when this system was created, the wiser of our forefathers were in the minority.

On the other hand, we did wind-up with the Bill of Rights. Unfortunately, the only Amendment remaining unscathed today is Amendment III. Based on the gutting of the rest of the Amendments and a good part of the Constitution, I guess we're just lucky not to have troops quartered in our homes, unlike the Afghanis, Iraqis, Haitians, and any other country the Supreme Court appointed Bush government chooses to illegally invade and occupy. However, this chilling trend makes for a horrifying future - rollover in your bed and you may get a bayonet in your back one day!

The justice system as it stands today is an indictment of itself. Even the most unenlightened citizens know that the rich pay to walk away, while the poor get locked-up in prison to stay, regardless of guilt or innocence. This development has been recognized by many judges and justices, and Judge Bazelon made it perfectly clear in the opening paragraph to his dissent in United States v Decoster, 624 F2d 196, 264 (DC Cir 1976):

> [H]is [Willie Decoster's] plight is an indictment of our system of criminal justice which promises "Equal Justice Under Law", but delivers only "Justice for Those Who Can Afford It." ... I cannot accept a system that conditions a defendant's right to a fair trial on his ability to pay for it. Like Justice Black, I believe that "[t]here can be no equal justice where the kind of trial a man gets depends on the amount of money he has." The Constitution forbids it. Morality condemns it. I dissent. [footnote and citation omitted].

Recent studies point out that a third of the citizens convicted in this country are actually innocent, a third would not have been convicted but for prosecutorial and police misconduct and violations of law, with only a third actually guilty of something. It strikes me as highly improbable that this Court does not know of this and the thousands of cases of prosecutorial misconduct that have recently been exposed. See Michael J. Sniffen, "First national study finds thousands of cases of misconduct by local prosecutors", Associated Press, 6/25/2003, at http://famulus.msnbc.com/famulusgen/ap06-25-124735.asp?t =apnew&vts=62520031250.

Wayne County Prosecutor, Kym L. Worthy, recently and correctly stated, prosecutors have "[w]ay overstepped [their] bounds", while recognizing "[t]hat you have awesome powers as a prosecutor". See Kelly A. McCauley, "New Wayne County Prosecutor Making An Immediate Impact", Michigan Lawyers Weekly, Feb. 2, 2004, at pp1 & 21.

Even more recently, federal judge Michael Chertoff of the Third Judicial Circuit, wrote that:

> [O]ur own experiences with domestic prosecutor's demonstrates how easy it is for prosecutors to creatively shape and extend the law so as to charge and try people whom the prosecutor targets as bad.

See Michael Chertoff, "Justice Denied", The Weekly Standard, April 12/April 19, 2004, at pp28-31.

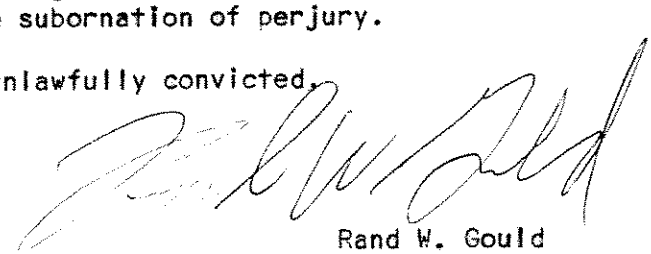
Prosecutorial and police misconduct stems from the corrupting economic system operating in America, to wit: "Grab all you can, any way that you can, and devil take the hind-most." Rules and ethics no longer apply. Convictions equal career advancement. The more convictions the more career advancement for both the prosecutors and the police, with this fact effectively eliminating justice and fudamental fairness from the equation. This social Darwinism, anticipated by the wiser of our country's founding fathers as noted above, has resulted in "a moral crisis of serious dimensions" in our country today. "Cheating is up. Cheating is everywhere." You can play by the rules and lose or break the rules and win. See David Callahan, "Take Back Values", The Nation, 2/09/04, pp14-20; also David Callahan, The Cheating Culture: Why More Americans Are Doing Wrong to Get Ahead (www.cheatingculture.com).

It is high time for this Court to start reviewing criminal appeal cases on their merits, and to stop denying review based on petty procedural bars. The continued legal interment of so many wrongfully and unjustly convicted only serves as a rapidly rising monument to the inherent corruption of a corrupt system. This Court would do well to take notice, as it has in the past, of Justice Brandeis's dissent in Olmstead v United States, 277 US 438, 485, 48 SCt 564, 72 LEd 944 (1928), as follows:

> Our Government is the potent, the omnipresent teacher. For good or ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in administration of criminal law the end justifies the means - to declare that the Government may commit crimes in order to secure the conviction of a private criminal - would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.

Wherefore, to paraphrase Benjamin Franklin, the system of morals left to us is the best the world ever saw or is likely to see; but I apprehend it has received various corrupting changes and, as a victim of this "pernicious doctrine", I must dissent. See Motion for Discovery and Motion for Relief from Judgment, filed on 8/06/03 & 8/25/03, respectively, in People v Rand W. Gould, Oakland CC No. 98-161396, COA No. 218729; SCt No. 120781 for irrefutable proof of police and prosecutorial misconduct including witness and evidence tampering, extortion, fraud, perjury and the subornation of perjury.

I remain, unlawfully convicted,



Rand W. Gould

RWG/rg
cc: file